

Independent Expenditures

An independent expenditure is any expenditure for a communication that expressly advocates the election or defeat of a clearly defined candidate.

It is also an expenditure for any communication distributed to voters within the last 21 days of an election in races involving a Maine Clean Election Act candidate that merely names or depicts a candidate in that race.

This pamphlet describes independent expenditures, reporting requirements, and filing deadlines in anticipation of the 2006 general election.

This material is intended to be a guide only and not a replacement for the law. Persons with questions should review the law and are encouraged to contact the Commission staff prior to taking action.

Legal References

Independent Expenditures

Express Advocacy

21-Day Presumption

Filing Procedures:

- 21-A M.R.S.A. §1019-B
- Commission Rules, Ch. 1, Sec. 10

Expenditures

Timing of Reporting Expenditures:

- 21-A M.R.S.A. §1012(3)
- Commission Rules, Ch. 1, Sec. 7

Matching Funds Calculation:

- 21-A M.R.S.A. §1125(9)
- Commission Rules, Ch. 3, Sec. 5(3)

Campaign Communication Disclosure:

- 21-A M.R.S.A. §1014

Maine Ethics Commission

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Maine Ethics Commission



2006 Independent Expenditure Reports

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Understanding the Basics

An independent expenditure is any expenditure for a communication that expressly advocates the election or defeat of a clearly identified candidate, if made independently of the candidate. If the expenditure is made in cooperation or consultation with a candidate or his or her campaign, it is considered a contribution to the campaign and must be reported by the candidate as a contribution.

Express Advocacy

Any communication that uses phrases such as “vote for the Governor,” “reelect your Representative,” “support the Democratic nominee,” “cast your ballot for the Republican challenger for Senate District 1,” “Jones for House of Representatives,” “Jean Smith in 2002,” “vote Pro-Life” or “vote Pro-Choice” accompanied by a list of pro-life or pro-choice candidates, “vote against Old Woody,” “defeat” accompanied by a picture of one or more candidates, “reject the incumbent,” or communications of campaign slogans or individual words, which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc. which say “Pick Berry,” “Harris in 2000,” “Murphy/Stevens” or “Canavan!”

“Clearly identified,” with respect to a candidate, means that the candidate’s name or a photograph or drawing of the candidate appears in the communication; or that the candidate’s identity is apparent by unambiguous reference.

Independent Expenditure Reports and Instructions can be downloaded at:

www.maine.gov/ethics

INDEPENDENT EXPENDITURES DURING THE LAST 21 DAYS OF AN ELECTION

Any communication that names or depicts a clearly identified candidate and that is distributed to voters within the last 21 days before an election (October 18 to November 7) in races involving a Maine Clean Election Act candidate is presumed to be an IE. This presumption applies even if the communication contains no express advocacy.

The person making the expenditure may rebut the presumption by submitting to the Commission within 48 hours of making the expenditure a signed written statement that the cost was not incurred with the intent to influence the election. The Commission will determine whether the evidence supports the rebuttal.

Matching Funds

The timely filing of IE reports is critical to the proper release of matching funds to Maine Clean Election Act candidates. Failure to file an IE report can result in steep fines assessed by the Ethics Commission.

“Paid for” Disclosure

Any communication which expressly advocates the election or defeat of a candidate must contain a disclosure statement. If the communication is an IE, this statement must indicate that the communication was not paid for or authorized by any candidate (this must be in bold Times New Roman font no smaller than 10-point) and the name and address of the person who paid for the communication. The Commission suggests the following format:

Paid for by Mainers for Lobster, 28 Lighthouse Way, Augusta, ME. **NOT PAID FOR OR AUTHORIZED BY ANY CANDIDATE.**

A disclosure statement is not required on small items, such as balloons and buttons. Contact the Commission for a complete list.

Filing Requirements

Anyone making independent expenditures aggregating more than \$100 during a candidate’s election must file a detailed report with the Commission. The report must list each candidate supported or opposed, the amount spent on each candidate, and detailed information for each expenditure.

The filer must also submit a notarized statement that the expenditure was not made in cooperation, consultation or concert with, or at the request or suggestion of the candidate or an authorized committee or agent of the candidate. If these conditions do not apply to the expenditure, it is a contribution to the candidate and is subject to contribution limits.

When to File a Report

Under the Election Law, an expenditure is made when the order for goods or services is placed; a promise or agreement (even an implied one) that a payment will be made; the signing of a contract for a good or service; and the delivery of a good or the performance of a service by a vendor. This means that even if there is only an oral agreement with a vendor and no payment has been made, an expenditure has been made and must be reported.

Once the total amount of IEs spent on behalf of a candidate exceeds \$250, all IEs, regardless of amount, must be reported within 24 hours of when the expenditure is made.

If the total amount of IEs spent on behalf of a candidate is more than \$100 but not more than \$250, all IEs must be reported as follows:

<i>Reporting Period</i>	<i>Due Date</i>
June 14 to July 5	July 15
July 6 to September 30	October 10
October 1 to October 26	October 26
After October 26	Within 24 Hours

The report must be filed on paper. Faxed copies are acceptable provided that the original is filed within 5 calendar days.